

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE: NEELAM TANEJA

17-cv-9429 (JGK)

MEMORANDUM OPINION  
& ORDER

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JOHN G. KOELTL, District Judge:

The pro se appellant has filed a motion for reconsideration of the Court's Memorandum Opinion & Order dated March 21, 2018. The appellant correctly asserts that the Court affirmed the bankruptcy court's order dismissing the appellant's Chapter 13 petition before the April 2, 2018, deadline for the appellant to file any reply brief. The appellant should have been given an opportunity to file her reply brief before the Court decided the appeal.

Because the appellant has filed an appeal in the U.S. Court of Appeals for the Second Circuit, this Court lacks jurisdiction to modify the March 21, 2018, Memorandum Opinion & Order. See United States v. Rodgers, 101 F.3d 247, 251 (2d Cir. 1996).<sup>1</sup>

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<sup>1</sup> The Court did have jurisdiction to issue the Order on May 23, 2018, dismissing as moot the appellant's application to proceed in forma pauperis, which was delaying the appeal from proceeding in the Court of Appeals. See, e.g., Arrowhead Capital Fin., Ltd. v. Seven Arts Entm't, Inc., No. 14-cv-6512, 2017 WL 3394604, at \*6 (S.D.N.Y. Aug. 8, 2017) ("[I]t is well recognized that a district court retains power to

The appellant is nevertheless invited to file in this Court by **June 15, 2018**, any additional materials with respect to her appeal from the bankruptcy court's order.

At that point, if the appellant's additional materials render her appeal meritorious, the Court may issue an order requesting that the Court of Appeals remand the matter to this Court so that the Court may modify the judgment. If the appellant's additional materials do not render her appeal meritorious, the Court may instead deny her motion for reconsideration without waiting for the result of the appeal in the Court of Appeals in the interest of judicial economy. See Fed. R. Civ. P. 62.1(a) ("If a timely motion is made for relief that the court lacks authority to grant because of an appeal that has been docketed and is pending, the court may: (1) defer considering the motion; (2) deny the motion; or (3) state either that it would grant the motion if the court of appeals remands for that purpose or that the motion raises a substantial issue."); United States v. Yonkers Bd. of Educ., No. 80-cv-6761, 1999 WL 509524, at \*2 (S.D.N.Y. July 19, 1999) (noting that a district court may modify an order during the pendency of an appeal if the modification "does not impact the substance of the


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perform certain functions in aid of an appellate court's jurisdiction notwithstanding the existence of an appeal." (citation omitted)).

matters presently before the appellate tribunal" or "preserve[s] the status quo").

SO ORDERED.

Dated: New York, New York  
May 24, 2018

  
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John G. Koeltl  
United States District Judge